

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8441 of 1994

Date of decision: 12-8-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CELLULOSE PRODUCTS OF INDIA LTD.

Versus

GUJARAT POLLUTION CONTROL BOARD  
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Appearance:

MR A.M. Raval for Petitioner

None present for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/08/97

## ORAL JUDGEMENT

The petitioner , a Company registered under the provisions of the Companies Act, 1956 filed this special civil application challenging the order annexure-C dated 21st April, 1993 under which the application filed by it for grant of 'no objection certificate' for proposed unit at Plot No.6, GIDC, Ankleshwar, District Bharuch, has been declined by the respondent on the ground that another establishment of the petitioner (distillery industry), located at Pungam, District Bharuch, is not complying with the conditions laid down in the consent order.

2. The learned counsel for the petitioner made three fold contentions in support of this case. Firstly, it is contended that the order dated 21st April, 1993 has been passed without any notice or opportunity of hearing to the petitioner. The second contention raised is that the respondent has failed to give out any provision under which it has exercised the power to decline grant of 'no objection certificate' to the petitioner. The counsel for the petitioner continued the submission contending that even if the petitioner had committed some default and not complied with the conditions laid down in the consent order referred to in the impugned order, the permission for starting new unit could not have been declined. Lastly, the counsel for the petitioner contended that the special civil application was ordered to be heard with another special civil application and as such both the petitions may be heard together.

3. No body is present on behalf of the respondent. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner.

4. The respondent is the authority which is concerned with the enforcement and implementation of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. In case the authority considers that the petitioner in its another establishment is not complying with the provisions of the Act, and not taking adequate precautions for control of air and water pollution, then certainly the respondent has power to decline 'no objection certificate' to the petitioner for establishment of another unit. The ground which has been given by the respondent for rejection of the application of the petitioner for grant of 'no objection certificate' for the proposed unit at Plot No.6, GIDC, Ankleshwar,

District Bharuch, is germane to the question of control of water and air pollution, and it cannot be said that on any extraneous or irrelevant consideration the 'no objection certificate' has been declined, nor can it be said that the respondent has acted arbitrarily. This Court sitting under Article 226 of the Constitution of India may decline to interfere in the matter where it is satisfied that the order passed is in larger public interest or where the order is not arbitrary or perverse.

5. The first contention raised by the counsel for the petitioner is devoid of any substance. So far as the second contention is concerned, it is true that notice or opportunity of hearing was not given to the petitioner before passing the order dated 21st April, 1993, but the counsel for the petitioner has failed to show any provision from the Acts under reference or the Rules framed thereunder where, on the application made, the authority has to give hearing to the petitioner before declining the grant of 'no objection certificate'. In absence of any such provision under the statute, the contention of the counsel for the petitioner that notice or opportunity of hearing should have been given, has no substance.

6. The last contention is also of no consequence. First of all, this petition was not ordered to be heard with another petition. Learned counsel for the petitioner has failed to give out how any prejudice is caused to the petitioner in case this writ petition is heard and decided independently. However, from this contention of the counsel for the petitioner, it comes out that the second petition relates to the action which has been initiated by GIDC for eviction of the petitioner from plot No.6, GIDC Estate, Ankleshwar, on the ground of non-user thereof. It is altogether different and separate cause of action which has nothing to do with the matter in issue. This matter relates to the issue arising under the provisions of the aforesaid two Acts, and the issue relating to eviction of the petitioner from plot No.6, GIDC Estate, Ankleshwar, has nothing to do with it. These two matters have no relevance as the subject matter of dispute raised in this petition is altogether different.

7. The counsel for the petitioner otherwise also has failed to show any provision that where a plot allotted to a Company or any person for establishment of industrial unit by GIDC, then permission for establishment of the same has to be granted by the respondent. Grant of 'no objection certificate' for an

establishment of the nature as proposed by the petitioner has nothing to do with non-user of the plot by the petitioner.

8. In the result this special civil application fails and the same is dismissed. However, it is still open to the petitioner to make fresh application to the respondent. In case the respondent considers that the distillery industry of the petitioner located at Pungam, District Bharuch is complying with the conditions laid down in the consent order, reference to which has been made in the letter annexure-C, and if such application is made by the petitioner, the respondent shall consider the same on merits and in accordance with law. Rule discharged. No order as to costs.

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